Amendments and Remarks

The Examiner rejected Claims 1-2 under 35 U.S.C. 102(b) as being anticipated by Seabaugh ('860). The Examiner stated that the Applicant's arguments filed on February 19, 2003, have been fully considered and that they are not persuasive.

5   In order to establish a prima facie case of anticipation, the Examiner must set forth an argument that provides (1) a single reference (2) that teaches or enables (3) each of the claimed elements (as arranged in the claim) (4) either expressly or inherently and (5) as interpreted by one of ordinary skill in the art. All of these factors must be present, or a case of anticipation is not met. Thus, "[a]nticipation requires the disclosure in a single prior art reference of each element

10   of the claim under consideration." *W.L. Gore & Associates v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983). It is not enough, however, that the prior art reference disclose all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452,

15   221 USPQ 481,485 (Fed. Cir. 1984). Thus, even if the prior art reference includes all of the elements that are claimed, if the arrangement of the claimed elements is different from the arrangement of the prior art elements, anticipation will not be present. Further, anticipation will not be found when the prior art is lacking or missing a specific feature or structure of the claimed invention. Finally, regarding inherency, "[i]nherency...may not be established by probabilities or

20   possibilities. The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient." *In re Oelrich*, 666 F.2d 578, 581, 212 USPQ 323, 326 (C.C.P.A. 1981). That is, a missing element or function must *necessarily* result from the prior art reference. Furthermore, regarding teaching or disclosing, the description must enable a person with ordinary skill in the art not only to comprehend the invention, but also to make it. *In re Wilder*, 429 F. 2d 477, 166

25   USPQ 545 (C.C.P.A. 1970).

On August 25, 2003, the Examiner and Applicants' representative held a telephone conference to discuss the Response dated August 10, 2003. In the telephone discussion, the Examiner indicated that he felt that the term "independently selectable" was vague and requested this term to be changed to "different."

30   Subsequent to the conversation with the Examiner, the Applicants have done a search at the USPTO for the term "independently selectable" within the claims of other patents granted in the US. Attached are the search results, where the Applicants note that

there are at least 127 patents granted in the US containing the term "independently selectable."

In addition, the Applicants submit that the specification and drawings clearly define the term "independently selectable." The discussion of Figure 2 on the bottom of

5   page 5 of the present application states "The distances, labeled d_1, d_2, and d_x, between the ion-implanted regions 210, 212, and 214 and the nearest barrier 204 of each diode may be chosen independently to vary the characteristics of each diode." Applicants submit that this discussion coupled with the drawings would make clear to one skilled in the art what the term "independently selectable" means and thus this term is not vague. Further, the

10   Applicants assert, as presented in the previous response, that this feature is not taught in any of the prior art cited by the Examiner.

Because Seabaugh ('860) does not teach this feature of the present invention, either expressly or inherently, the Seabaugh ('860) fails to provide (1) a single reference (2) that teaches or enables (3) each of the claimed elements (as arranged in the claim) (4)

15   either expressly or inherently and (5) as interpreted by one of ordinary skill in the art. Thus, the Applicant respectfully requests that the Examiner withdraw this rejection of Claim 1.

Regarding Claim 2

20   For reasons set forth above, the Applicant asserts that Seabaugh ('860) fails to teach each and every feature of the present invention, arranged as claimed in Claim 1, which the Applicants believe is allowable on that basis. Moreover, because Claim 2 depends from an allowable Claim 1, the Applicants respectfully request that the Examiner withdraw this rejection of Claim 2.

25

Concluding Remarks:

In view of the foregoing, it is respectfully submitted that all now pending Claims 1 and 2 are in allowable condition. Accordingly, early allowance and issuance of this application is respectfully requested. Should the Examiner have any questions regarding

5   this response or need any additional information, please contact the undersigned at (310) 589-8158.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 50-2691. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as

10   including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 50-2691.

15   Respectfully submitted,

20   _09/16/2003_   _____ ,
       Date /   /   Cary Tope-McKay
                                                                      Registration No. 41,350

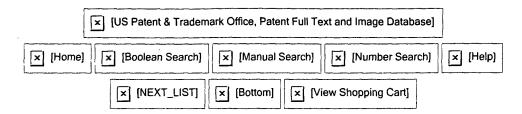   Cary Tope-McKay
25   TOPE-MCKAY & ASSOCIATES
       23852 Pacific Coast Hwy. #311
       Malibu, Ca 90265
       Tel: 310.589.8158
       Mobile: 310.383.7468
30   Fax: 310-943-2736
       E-mail: cmckay@topemckay.com

Attachment: print-out from USPTO web-site

[x] [US Patent & Trademark Office, Patent Full Text and Image Database]

[x] [Home]   [x] [Boolean Search]   [x] [Manual Search]   [x] [Number Search]   [x] [Help]

[x] [NEXT_LIST]   [x] [Bottom]   [x] [View Shopping Cart]

Searching 1976 to present...

Results of Search in 1976 to present db for:
ACLM/"independently selectable": 127 patents.
Hits 1 through 50 out of 127

[Next 50 Hits]

[Jump To]

[Refine Search]   aclm/"independently selectable"

PAT. NO.		Title
1	6,614,674 [x] Full-Text	Regulator circuit for independent adjustment of pumps in multiple modes of operation
2	6,611,932 [x] Full-Text	Method and apparatus for controlling and observing data in a logic block-based ASIC
3	6,606,057 [x] Full-Text	High gain planar scanned antenna array
4	6,600,456 [x] Full-Text	Adaptive antenna for use in wireless communication systems
5	6,595,172 [x] Full-Text	Variable valve actuator assembly having a secondary actuator
6	6,591,352 [x] Full-Text	Method and apparatus for executing firmware from a valid startup block
7	6,583,638 [x] Full-Text	Temperature-controlled semiconductor wafer chuck system
8	6,553,117 [x] Full-Text	Programmable multiple-standard digital communications system
9	6,529,303 [x] Full-Text	Optical communications networks utilizing frequency division multiplexing
10	6,528,799 [x] Full-Text	Device and method for suppressing space charge induced aberrations in charged-particle projection lithography systems
11	6,525,828 [x] Full-Text	Confocal color
12	6,520,928 [x] Full-Text	Medical liquid injection system and method
13	6,515,635	Adaptive antenna for use in wireless communication systems

	☒ Full-Text	
14 6,509,765	☒ Full-Text	Selectable resistor and/or driver for an integrated circuit with a linear resistance
15 6,484,271	☒ Full-Text	Memory redundancy techniques
16 6,464,026	☒ Full-Text	Control system for parallel hybrid vehicle
17 6,424,338	☒ Full-Text	Speed zone touchpad
18 6,424,222	☒ Full-Text	Variable gain low noise amplifier for a wireless terminal
19 6,377,210	☒ Full-Text	Automatic mobile object locator apparatus and method
20 6,371,765	☒ Full-Text	Interactive computer-based training system and method
21 6,371,640	☒ Full-Text	Apparatus and method for characterizing libraries of different materials using X-ray scattering
22 6,366,531	☒ Full-Text	Method and apparatus for acoustic logging
23 6,362,302	☒ Full-Text	Method and compositions for spray molding polyurethane three dimensional objects
24 6,326,538	☒ Full-Text	Random tie rhythm pattern method and apparatus
25 6,313,659	☒ Full-Text	Controlled impedance CMOS receiver for integrated circuit communication between circuits
26 6,310,149	☒ Full-Text	Polymerization catalyst and process
27 6,303,941	☒ Full-Text	Integrated asymmetric resonant tunneling diode pair circuit
28 6,282,131	☒ Full-Text	Self-timed clock circuitry in a multi-bank memory instance using a common timing synchronization node
29 6,255,576	☒ Full-Text	Device and method for forming waveform based on a combination of unit waveforms including loop waveform segments
30 6,223,313	☒ Full-Text	Method and apparatus for controlling and observing data in a logic block-based asic
31 6,218,342	☒ Full-Text	Oil-based drilling fluid
32 6,198,335	☒ Full-Text	Method and apparatus to drive the coil of a magnetic write head
33 6,196,359	☒ Full-Text	Vehicle braking system and braking method using a plurality of two-state actuators
34 6,195,592	☒ Full-Text	Method and apparatus for providing tactile sensations using an interface device
35 6,188,373	☒ Full-Text	System and method for per beam elevation scanning
36 6,182,031	☒ Full-Text	Scalable audio coding system
37 6,150,828	☒ Full-Text	Method and apparatus for automatically positioning electronic dice with component packages

38 6,147,693 ☒ Full-Text | Localizable date time spinner

39 6,137,456 ☒ Full-Text | Electronic display device for simultaneously displaying 2D and 3D images

40 6,121,533 ☒ Full-Text | Method and apparatus for generating random weighted musical choices

41 6,064,194 ☒ Full-Text | Method and apparatus for automatically positioning electronic dice within component packages

42 RE36,654 ☒ Full-Text | Stacked LCD color display

43 6,038,154 ☒ Full-Text | Circuit and method for controlling a synchronous rectifier converter

44 6,028,977 ☒ Full-Text | All-optical, flat-panel display system

45 6,023,184 ☒ Full-Text | Converter providing digital scaling and mixing

46 6,021,045 ☒ Full-Text | Heat sink assembly with threaded collar and multiple pressure capability

47 5,979,041 ☒ Full-Text | Apparatus for assembling heat exchangers

48 5,978,878 ☒ Full-Text | Selective latency reduction in bridge circuit between two busses

49 5,959,892 ☒ Full-Text | Apparatus and method for programming virtual ground EPROM array cell without disturbing adjacent cells

50 5,945,736 ☒ Full-Text | Heat sink assembly with snap-in cover plate having multiple pressure capability

---

☒ [NEXT_LIST]   ☒ [Top]   ☒ [View Shopping Cart]

☒ [Home]   ☒ [Boolean Search]   ☒ [Manual Search]   ☒ [Number Search]   ☒ [Help]